

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TASAI BETTS,

Plaintiff,

v.

D. VARNER, *et al.*,

Defendants.

No. 1:21-CV-01309

(Chief Judge Brann)

ORDER

AND NOW, this 31st day of March 2022, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendants' motion for partial dismissal, Doc. 9, is **DENIED**.
2. Pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii):
 - a. Betts' Fourth Amendment claim is **DISMISSED** with prejudice.
 - b. Betts' First Amendment "interference" claim, which is liberally construed as an access-to-courts claim, is **DISMISSED** without prejudice.
 - c. Betts' First Amendment retaliation claim against defendant Wertz is **DISMISSED** without prejudice.
 - d. All Section 1983 claims against all Defendants in their official capacities are **DISMISSED** with prejudice.
3. Betts, if desired, may file an amended complaint in conformity with the accompanying Memorandum Opinion within **21 days** of the date of this Order, or on before **April 21, 2022**.

4. If no amended complaint is timely filed, this case will proceed on the following two claims: (1) First Amendment retaliation against defendants J. McCloskey and Eberling in their individual capacities only; (2) state-law negligence against defendants Varner, Kauffman, J. McCloskey, Grassmyer, Wertz, and Wakefield.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge